

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A meeting of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, was held on **Monday, June 14, 2010**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:05 pm.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; Ms. Nicole Ewing, County Attorney; and Ms. Barbara B. Austin, Clerk of County Council. Committee Member Jack H. Schurlknight, Council District No. 6 and County Supervisor Daniel W. Davis were excused.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Farley called the meeting to order. Mr. Chip Boling provided the Invocation and Committee Member Cathy Davis led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley: "Ladies and gentlemen, from time to time, I ask the Clerk to Council to put my agenda on first so where the people that have matters before the Council and may slip out after their hearings are done and normally it's the longest one here so I appreciate the other Councilmen for understanding. Thank you. Next on the agenda is the approval of minutes from the May 11, 2010 meeting."

Committee Member Callanan: "Move for approval"

Committee Member S. Davis: "Second"

Chairman Farley: "I have a motion and I have a second. Is there any discussion? (No Response) Any corrections? (No Response) All in favor? (Ayes) Opposed? (No Response) Minutes stand approved.

It was moved by Committee Member Callanan and seconded by Committee Member S. Davis to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A. Consideration prior to First Reading of an Ordinance to amend and clarify certain sections of Ordinance No. 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance “**Berkeley County Zoning Ordinance**” and amending Ordinances Nos. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the regulation of Institutional Residential Land Uses and changes to the permitted Use Table.
[Staff recommended approval]
[Planning Commission recommended approval]

Chairman Farley: “Mr. Greenway?”

Mr. Greenway, Zoning Administrator: “You have on your screen in front of you there an overview of this particular amendment. Um, at least I hope you do....”

Chairman Farley: “The screen is not up. There it is....”

Mr. Greenway: “Currently in the Berkeley County Zoning Ordinance, we allow Institutional Residential Land Uses that would permit convents and monasteries and shelter care facilities for people undergoing substance abuse treatments and elderly care and things like that in all 16 of our zoning classifications, either as a permitted or a conditional use. We have been inundated with requests for these adult care facilities in the past several months here in Berkeley County. We have recently investigated a situation in the Sangaree neighborhood where one individual has purchased three single family dwellings and has opened up two and has plans, I understand, to open up a third adult care facility for eight people, eight elderly folks. She does not live in these homes. She has staff that come and stays there 24 hours a day. You have medical staff that visits periodically and things like that. It is creating a tremendous burden for the neighborhood with regards to parking. In the two situations that we have currently in Sangaree, I recently notified the individual and she has complied, to put in additional parking for the people so that we could get the cars off of the public street. There is no provision for the employees to park and no provision for visitors to park. This is something, as we continue to grow, that we should probably not allow to occur as a by-right use in these residential districts. So I am proposing tonight that we take that out of the residential classifications as a permitted use to stop that practice and the Planning Commission heard this request. One of the commissioners, and it is something that we may consider amending as we go through...one of the commissioners thought there might be some latitude to maybe allow it, if it was no more than one or two people, because if you have a non-related individual that someone wants to care for and that has to be licensed through the state and then it would be prohibited underneath this amendment. What’s before you this evening is consideration for First Reading, so we can do this under pending ordinance so that you all at your next meeting, you can consider it but we do foresee some additional amendments coming forth on this particular ordinance which we can do at a later date. And that is all that I have unless you all have any questions.”

Committee Member C. Davis: “Mr. Chairman?”

Chairman Farley: “Cathy”

Committee Member C. Davis: "I've got a question for Eric. Can you explain the potential impacts, specifically the grandfathering? What could happen there?"

Mr. Greenway: "Well, basically if someone had received approval from our office prior to this amendment to do this adult and elderly care or have one of these facilities in a residential neighborhood such as the Sangaree situation, they could continue to operate those facilities in accordance with the grandfathering provisions of the code, which currently provides that in order for that to go away, they would have to cease using those properties for that use for a period of a year before we could do anything about those. Anything that has been approved and permitted by Berkeley County or the State underneath the old ordinance could continue to operate and there would be nothing we could do about that, unless those facilities cease to operate for a period of a year, and they cannot go back in there."

Committee Member Pinckney: "Mr. Chairman?"

Chairman Farley: "Yes sir, Mr. Pinckney"

Committee Member Pinckney: "Mr. Greenway, in relationship to this particular amendment, how does that apply to other residential areas within the region? For example, Dorchester County, Charleston County. Do they have such an ordinance of this nature?"

Mr. Greenway: "I haven't specifically checked those counties. I could do that for you, but I do...I would not foresee Charleston County allowing this situation to occur in single-family residences in the middle of residential neighborhoods. Typically, this is a use that is permitted, convalescent nursing home type care, is a use that is permitted in a multi-family zoning classification which would correspond to our R-4 and R-5 zoning classifications and that is what we are going to bring back to you next month, is to allow those types of uses to occur in those multi-family districts where you have more density and these types of mixed use arrangements are expected to occur in those districts."

Chairman Farley: "What is the pleasure of Council?"

Committee Member C. Davis: "Move for approval"

Committee Member Fish: "Second"

Chairman Farley: "I have a motion and a second. Is there any more discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member C. Davis and seconded by Committee Member Fish to **approve** prior to **First Reading** of an **Ordinance** to amend and clarify certain sections of Ordinance No. 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance "**Berkeley County Zoning Ordinance**" and amending Ordinances Nos. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the

regulation of Institutional Residential Land Uses and changes to the permitted Use Table. The motion passed by unanimous voice vote of the Committee.

B. Consideration prior to First Reading of the following:

1. Request by Maxine Winningham, 1968 Cypress Campground Road, Ridgeville, TMS #177-00-00-165, (1.50 +/- acres), **from GC, General Commercial to PDMU, Planned Development Mixed Use District.** Council District No. 7.

[Staff recommended approval]

[Planning Commission recommended approval]

Mr. Greenway: "This is another one of those unique situations where you have a business that's operated in Berkeley County for some time. They are grandfathered currently underneath the General Commercial zoning classification. They are desiring, if you will look at the picture in the upper right hand corner, you will see a little addition that sticks out on the front of that facility. They are desiring to tear that off of the existing structure and rebuild a new addition on to that facility. With this being grandfathered, we of course, our grandfathering clause does not allow you to structurally alter a grandfather or non-conforming use in Berkeley County. So the only way that we can facilitate that issue was to have the property rezoned. The only zoning district that allows for that type of use, intensive animal production, is a Heavy Industrial zoning classification. That would have been inappropriate to do in this particular community, as you can see, the property is surrounded by a sea of Flex-1. The business, they have no problem with the business being there in their existing operation. They are very good for the community. It's a use that provides a lot of benefit to the surrounding area, but on term, I just thought Heavy Industrial would be detrimental to rezone this property, so we came up with a recommendation to the property owner and they pursued it, to rezone the property to PDMU."

Committee Member Pinckney: "Move for approval"

Committee Member S. Davis: "Second"

Chairman Farley: "I have a motion and a second. Any more discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member Pinckney and seconded by Committee Member S. Davis to **approve** prior to **First Reading**, the **Request by Maxine Winningham**. The motion passed by unanimous voice vote of the Committee.

2. Request by Robert & Lori Hammond, for Hammond Family, LLC, located off Cypress Gardens Road behind the par 3 golf course, Moncks Corner, TMS #210-00-00-198 (15.27 acres), **from HI, Heavy Industrial District and R-1, Single Family Residential District, to R-2R(F), Mobile Home Rural Farm Residential District.** Council District No. 6.

[Staff recommended denial]

[Planning Commission recommended approval]

Mr. Greenway: "The property here is currently zoned Heavy Industrial as Chairman Farley stated. They are requesting to rezone this property to a Mobile Home Rural Farm Residential District. Staff originally did not support this rezoning request because we felt that if the property were going to be rezoned from Heavy Industrial, then it would be best to go to an R1-R zoning classification just like the rest of Berkeley Run subdivision. But the individual stated at the Planning Commission, that the reason he chose the R2-RF is because he wants to keep animals on this property and the R1-R zoning classification would not allow him to keep animals on the property, but our concern with rezoning it to R2-RF was the fact that it would allow manufactured housing to proliferate onto the property potentially and we felt that it would be out of character with the existing Berkeley Run neighborhood. The applicant has stated he has no plans to do that. The only reason he is doing the R2-RF is for the animals and he has agreed that whenever we, and I think in Berkeley County as we rewrite the zoning code here in the next month or two, we need to create a zoning district that is a protective zoning classification that also allows in our rural areas for people to keep some animals and livestock and things like that. He has agreed that if we create that district that he would come in and request that his property be rezoned for that protection as well, to give the Berkeley Run neighborhood the assurance that he has no plans to put a mobile home subdivision on that property."

Committee Member Pinckney: "Move for approval"

Committee Member Call: "Second"

Chairman Farley: "I have a motion and a second. Is there any more discussion?"

Committee Member Fish: "Mr. Chairman?"

Chairman Farley: "Yes sir"

Committee Member Fish: "I've rode out there a couple of times, I don't see any animals out there now. He doesn't keep animals on there now."

Mr. Greenway: "I don't know for sure if he does or he doesn't. I'm just relaying to you what he said at the Planning Commission. I think....he indicated at the Planning Commission that he currently has goats, some sheep and some poultry on the property and that would not allow that in an R1-R zoning classification."

Committee Member Fish: "He sure has got them hid. I'm of the opinion that the rezoning took place as an attempt to continue to stop any Heavy Industrial based on the other issue."

Mr. Greenway: "Yes, that is one of the issues that occurred there. That is certainly.....he is desiring also to that in case the Cypress Gardens Road property is rezoned to Heavy Industrial, that if he can get this rezoning done, then that individual will have to provide more protection in

the way of buffers and setbacks off of the property line. That's the.....there are two related factors there, you are correct."

Committee Member Fish: "I think the whole thing smells.....I would recommend denial but you already have approval....."

Chairman Farley: "Is there anymore discussion? All in favor? (Ayes) All opposed? (One Nay) Do a roll call? How many Nays? Ok, one Nay. Don't need a roll call. It is approved."

It was moved by Committee Member Pinckney and seconded by Committee Member Call to **approve** prior to **First Reading**, the **Request by Robert & Lori Hammond**. The motion passed by majority voice vote of the Committee.

C. Review prior to Second Reading of the following:

1. Bill No. 10-21, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Bobby Strickland**, 2575 South Live Oak Drive, Moncks Corner, **TMS #196-05-00-069 and 059** (1.95 +/- acres), **from R-2, Manufactured Residential District to GC, General Commercial District**. Council District No. 6.

Committee Member S. Davis: "Move for approval"

Committee Member Pinckney: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member S. Davis and seconded by Committee Member Pinckney to **approve** prior to **Second Reading**, **Bill No. 10-21**. The motion passed by unanimous voice vote of the Committee.

2. Bill No. 10-22, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **America's Home Place, Inc.**, for **Marion McClennon**, 1206 Seaboard Rd., St. Stephen, **TMS #047-00-02-042** (1.0 acre), **from GC, General Commercial District to F-1, Agricultural District**. Council District No. 8.

Committee Member S. Davis: "Move for approval"

Committee Member Pinckney: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member S. Davis and seconded by Committee Member Pinckney to **approve** prior to **Second Reading, Bill No. 10-22.** The motion passed by unanimous voice vote of the Committee.

3. Bill No. 10-23, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Connie Shuler**, 1545 Old Highway 6, Cross, portion of **TMS #041-00-05-066** (1.5 acres), **from F-1, Agricultural District to RNC, Rural & Neighborhood Commercial District.** Council District No. 7.

Committee Member Pinckney: "Move for approval"

Committee Member S. Davis: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member Pinckney and seconded by Committee Member S. Davis to **approve** prior to **Second Reading, Bill No. 10-23.** The motion passed by unanimous voice vote of the Committee.

HELD IN COMMITTEE MAY 14, 2010

4. Bill No. 10-10, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Jeffery Moorer** for **Norman and Mary Laskey**, located approximately 2,340 L. F. east of the intersection of South Live Oak Drive and Cypress Gardens Road, Moncks Corner, **TMS #210-00-00-126** (10.35 acres), **from GC, General Commercial District to HI, Heavy Industrial District.** Council District No. 6.

Committee Member Pinckney: "Mr. Chairman? Since Mr. Schurlknight is not here and without objection, could we hold this for another month until he is here to actually expand on it."

Chairman Farley: "All right. This will be held one more month and we will go from there."

Committee Member Pinckney: "Thank you."

D. Review prior to Third Reading of the following:

1. Bill No. 10-11, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Mark Wysong** for multiple owners in Cainhoy Plaza "HPR", located at 2126 Cainhoy Road, Huger, **TMS #248-05-01-001 through 248-05-01-028 and all common P.O.A areas** (3.0 +/- acres), **from RNC, Rural & Neighborhood Commercial District to LI, Light Industrial District.** Council District No. 8.

Committee Member S. Davis: "Move for approval"

Committee Member Pinckney: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member S. Davis and seconded by Committee Member Pinckney to **approve** prior to **Third Reading, Bill No. 10-11**. The motion passed by unanimous voice vote of the Committee.

2. Bill No. 10-13, an ordinance to amend and clarify certain sections of Ordinance No. 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance, "Berkeley County Zoning Ordinance" and amending Ordinances No. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, 07-07-43, and 08-10-63 **in regard to the proposed overlay district for Pimlico Subdivision with map.**

Committee Member Callanan: "Move for approval"

Committee Member Fish: "Second"

Chairman Farley: "I have a motion and a second. Is there any discussion? (No Response) All in favor? (Ayes) All opposed? (No Response) Motion carries."

It was moved by Committee Member Callanan and seconded by Committee Member Fish to **approve** prior to **Second Reading, Bill No. 10-13**. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Callanan and seconded by Committee Member Fish to **adjourn** the Committee on Land Use meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 6:22 pm.

July 12, 2010
Date Approved

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, District No. 1

Members: Mr. Timothy J. Callanan, District No. 2
Mr. Robert O. Call, Jr., District No. 3
Mrs. Cathy S. Davis, District No. 4
Mr. Dennis Fish, District No. 5
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8
Mr. Daniel W. Davis, Supervisor, ex officio

A **meeting** of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, will be held on **Monday June 14, 2010, at 6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES

May 11, 2010

A. Consideration prior to **First Reading** of an **Ordinance** to amend and clarify certain sections of Ordinance No. 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance “**Berkeley County Zoning Ordinance**” and amending Ordinances Nos. 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the regulation of Institutional Residential Land Uses and changes to the permitted Use Table.

[Staff recommended approval]

[Planning Commission recommended approval]

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[Staff recommended approval]

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[Staff recommended denial]

[Planning Commission recommended approval]

C. **Review prior to Second Reading** of the following:

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HELD IN COMMITTEE MAY 14, 2010

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June 9, 2010
Barbara B. Austin, CCC
Clerk of County Council